

PROPOSED RULE ON THE REVIEW OF RURAL DETERMINATIONS

Action Item for Federal Subsistence Regional Advisory Councils Fall 2006

- This is an action item for all of the Federal Subsistence Regional Advisory Councils. The Federal Subsistence Board is seeking Council recommendations and public comments through October 27, 2006 on a proposed rule that would change the rural or nonrural status of several Alaska communities and areas.
- The proposed rule is being provided to the Councils for their reference. No changes in rural/nonrural status of communities or areas are being proposed in the Bristol Bay, Yukon-Kuskokwim Delta, Western Interior Alaska, Seward Peninsula, Northwest Arctic, or Eastern Interior Alaska Council regions.
- The Board will hold public hearings in Kodiak September 20-21, in Saxman September 25, in Ketchikan September 26, and in Sitka October 10. The Board will make a decision on a final rule at a public meeting in Anchorage December 12-13. Public testimony will be taken at that meeting, and all Council Chairs are invited.
- ANILCA requires that rural Alaskans be given priority for subsistence uses of fish and wildlife on Federal public lands. Only residents of rural communities and areas are eligible for this subsistence priority.
- The Board initially determined which Alaska communities were rural when the Federal Subsistence Management Program began in 1990.
- Federal subsistence regulations require that rural/nonrural status be reviewed every 10 years, beginning with the availability of the 2000 census data. An initial staff review, completed in July 2005, recommended that the rural/nonrural status of most Alaska communities should remain unchanged for the proposed rule. Comment periods were provided at earlier stages in the review process.
- The regulations require that communities or areas that are economically, socially, and communally integrated be grouped for evaluation purposes. That was the first step in the analysis, followed by evaluation of rural/nonrural status.
- For considering whether communities or areas should be grouped, the Board directed staff to report on the following three indicators: 1) proximity/road connectedness; 2) shared high school attendance area; and 3) commuting of 30% or more of the workers between places of interest.
- The regulations establish guidelines for rural and nonrural status relative to population size:
 - A community with a population below 2,500 is considered rural, unless it possesses significant characteristics of a nonrural nature or is considered to be socially and economically part of a nonrural area.
 - A community with a population of more than 7,000 is considered nonrural unless it possesses significant characteristics of a rural nature.

- A community with a population above 2,500, but not more than 7,000, is to be evaluated to determine rural/nonrural status.
- For evaluating rural/nonrural status of communities or groupings, the method was to:
 - First, categorize the community or grouping by population size relative to the population thresholds.
 - Then, evaluate community characteristics as warranted. These may include, but are not limited to:
 - Diversity and development of the local economy
 - Use of fish and wildlife
 - Community infrastructure
 - Transportation
 - Educational institutions.
- Turning now to changes being proposed by the Board, **Prudhoe Bay** is proposed for change from rural to nonrural status in the North Slope Region. The Board has come to the preliminary conclusion that Prudhoe Bay is an industrial enclave built for the sole purpose of extracting oil, with no permanent residents and none of the characteristics typical of a rural community.
- In the Southcentral Alaska Region, it is proposed that communities or areas be added to the nonrural Wasilla-Palmer, Homer, and Kenai Areas, and thereby change in status from rural to nonrural, as follows:
 - **Point MacKenzie** grouped with the nonrural Wasilla-Palmer Area. Available information indicates that Point MacKenzie is economically, socially and communally integrated with the Wasilla-Palmer Area. Point MacKenzie is in proximity and road accessible to the Wasilla-Palmer Area, its students attend Wasilla High School, and 50 percent of Point MacKenzie workers commute to the Wasilla-Palmer Area for employment.
 - **Fritz Creek East** (not including Voznesenka) and the **North Fork Road area** grouped with the nonrural Homer Area. Available information indicates that these areas are economically, socially and communally integrated with the Homer Area. They are in proximity and road-connected with Homer, more than 40 percent of workers from these areas commute to the Homer Area, and most students from these areas attend Homer High School.
 - **Sterling** would be fully included in the nonrural Kenai Area. Sterling has been part of the nonrural Kenai Area since 1990. For the 2000 census, the Sterling area was expanded, such that a significant portion now extends beyond the current boundary of the Kenai Area. The Board believes that the boundaries of the Kenai Area should be adjusted to include all of Sterling. Students in Sterling go to high school in the Kenai Area, and the level of commuting is at 61.2%, well above the minimum criteria for grouping.
- In the Kodiak/Aleutians Region, changes are proposed for Adak and Kodiak, as follows:
 - Status of the community of **Adak** would change from nonrural to rural. Adak has undergone substantial change that warrants a change in status. Specifically, the population of Adak decreased by 94% from 1990 to 2000, bringing it well below the presumptive rural population threshold of 2,500. It is an extremely remote island community accessible only by boat or plane.

- The **Kodiak Area**, including the City of Kodiak, the Mill Bay area, the Coast Guard Station, Women's Bay and Bells Flats, would be grouped and change in status from rural to nonrural. The population of this area is approximately 12,000, well above the nonrural population threshold, and community characteristics indicate nonrural status. (Places excluded from this nonrural grouping are Chiniak, Pasagshak, Anton Larsen, Kalsin Bay and Middle Bay, as well as villages and communities on the Kodiak Archipelago not connected by road to the Kodiak area. These places would remain rural in status.)
- In the Southeast Alaska Region, changes are proposed in the nonrural **Ketchikan Area**, which would be expanded to include areas on the road system to the north and south of the current nonrural boundary. However, Saxman would remain separate and rural. Even though the grouping criteria would indicate including Saxman with the Ketchikan Area, there are social and economic characteristics that indicate that Saxman should not be grouped in the Ketchikan Area, as described further in the proposed rule. The population of the Ketchikan Area, excluding Saxman, is 12,720, well above the nonrural population threshold, and community characteristics indicate nonrural status.
- The analysis used by the Board in developing the proposed rule can be found on the Office of Subsistence Management website, or can be obtained from OSM staff.
- Once again, this is an action item for all of the Federal Subsistence Regional Advisory Councils. Including the rationale for your recommendation would be most helpful to the Board. The Board will make a decision on a final rule at a public meeting in Anchorage December 12-13, 2006.

corrected to read “*G. Request for Comments*”.

Guy Traynor,

*Chief, Publications and Regulations Branch,
Legal Processing Division, Associate Chief
Counsel (Procedure and Administration).*

[FR Doc. E6–13118 Filed 8–11–06; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–135866–02]

RIN 1545–BA93

Section 1248 Attribution Principles; Correction

AGENCY: Internal Revenue Service (IRS),
Treasury.

ACTION: Notice of proposed rulemaking;
correction.

SUMMARY: This document corrects a notice of proposed rulemaking (REG–135866–02) that was published in the **Federal Register** on Friday, June 2, 2006 (71 FR 31985) providing guidance for determining the earnings and profits attributable to stock of controlled foreign corporations (or former controlled foreign corporations) that are (were) involved in certain nonrecognition transactions.

FOR FURTHER INFORMATION CONTACT: Michael Gilman, (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking (REG–135866–02) that is the subject of this correction is under section 1248 of the Internal Revenue Code.

Need for Correction

As published, REG–135866–02 contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–135866–02) that was the subject of FR Doc. E6–8551 is corrected as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. On page 31991, instructional Par. 4. is amended by adding a new entry at the end of the amendatory instruction to read as follows:

Adding new paragraph (g).

§ 1.1248–1 [Corrected]

Par. 3. On page 31991, § 1.1248–1 is amended by adding a new paragraph (g) to read as follows:

§ 1.1248–1 Treatment of gain from certain sales or exchanges of stock in certain foreign corporations.

* * * * *

(g) *Effective date.* Paragraph (a)(4) and paragraph (a)(5), *Example 4*, of this section apply to income inclusions that occur on or after the date that paragraph and example are published as final regulations in the **Federal Register**.

Guy Traynor,

*Chief, Publications and Regulations Branch,
Legal Processing Division, Associate Chief
Counsel (Procedure and Administration).*

[FR Doc. E6–13119 Filed 8–11–06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AT99

Subsistence Management Regulations for Public Lands in Alaska, Subpart C; Nonrural Determinations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rule would revise the list of nonrural areas identified by the Federal Subsistence Board (Board, we, us). Areas determined to be nonrural are not eligible to participate in the Federal Subsistence Management Program on Federal public lands in Alaska. We propose to change Adak’s status to rural. We also propose to add Prudhoe Bay and the Kodiak Area, including the City of Kodiak, the Mill Bay area, Womens Bay, Bell’s Flats, and the Coast Guard Station to the list of nonrural areas. The following areas would continue to be nonrural, but we propose changes in their boundaries: the Kenai Area; the Wasilla/Palmer Area, including Point

McKenzie; the Homer Area, including Fritz Creek East (except Voznesenka) and the North Fork Road area; and the Ketchikan Area. We propose no other changes in status. However, new information could lead to changes not proposed at this time.

DATES: We must receive your written public comments no later than October 27, 2006.

ADDRESSES: You may submit comments electronically to Subsistence@fws.gov. See **SUPPLEMENTARY INFORMATION** for file format and other information about electronic filing. You may also submit written comments to the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Pete Probasco, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region, (907) 786–3888.

SUPPLEMENTARY INFORMATION:

Comments

Electronic filing of comments is preferred: You may submit electronic comments and other data to Subsistence@fws.gov. Please submit as MS Word or Adobe Acrobat (PDF) files, avoiding the use of any special characters and any form of encryption.

Background

In Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), Congress found that “the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses * * *” and that “continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened * * *.” As a result, Title VIII requires, among other things, that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a program to provide rural Alaska residents a priority for the taking of fish and wildlife on public lands in Alaska for subsistence uses, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, priority, and participation specified in sections 803, 804, and 805 of ANILCA.

The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural priority in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* caused the State to delete the rural priority from the subsistence statute which therefore negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990. As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Departments published the Temporary Subsistence Management Regulations for Public Lands in Alaska in the **Federal Register** (55 FR 27114). Permanent regulations were jointly published on May 29, 1992 (57 FR 22940), and have been amended since then.

As a result of this joint process between Interior and Agriculture, these regulations can be found in the titles for Agriculture and Interior in the Code of Federal Regulations (CFR) both in title 36, "Parks, Forests, and Public Property," and title 50, "Wildlife and Fisheries," at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain the following subparts: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subparts A, B, and C of these regulations, as revised May 7, 2002 (67 FR 30559), and December 27, 2005 (70 FR 76400), the Departments established a Federal Subsistence Board (Board) to administer the Federal Subsistence Management Program, as established by the Secretaries. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management (BLM); the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

Rural Determination Process

With a **Federal Register** notice on October 5, 1990 (55 FR 40897), the newly established Federal Subsistence Board initiated the preparation of an Environmental Impact Statement as a vehicle for widespread public review and participation in the development of the final temporary regulations. The rural determination process was included, and subsequently on November 23, 1990 (55 FR 48877), the Board published another notice in the **Federal Register** explaining the proposed Federal process for making rural determinations, the criteria to be used, and the application of those criteria in preliminary determinations. Public meetings were held in approximately 56 Alaskan communities, specifically to solicit comments on the proposed Federal Subsistence Management Program. On December 17, 1990, the Board adopted final rural and nonrural determinations, which were published on January 3, 1991 (56 FR 236). Final programmatic regulations were published on May 29, 1992, with only slight variations in the rural determination process (57 FR 22940).

Federal subsistence regulations require that the rural/nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data. The Board evaluated several options for conducting the review and decided to adopt an approach similar to that taken in 1990, which used criteria established in Federal subsistence regulations. The review was conducted with an emphasis on what has changed since 1990.

Although the process uses data from the 2000 census for its review, some data were not compiled and available until 2005. Data from the Alaska Department of Labor were used to supplement the census data.

During February–July 2005, the staff of the Federal Subsistence Management Program conducted an initial review of the rural status of Alaska communities, looking at the 2000 census data for each community or area with an emphasis on what had changed since 1990. From this initial review, staff compiled a report that included a proposed list of communities and areas for which further analysis appeared warranted. In addition, the report included the method used to develop this list. In August–October 2005, the public and Federal Subsistence Regional Advisory Councils were invited to comment on the results of this initial review.

At a meeting in Anchorage on December 6–7, 2005, the Board took public testimony and determined that

additional information was needed on 10 communities and areas before it decided upon any potential changes.

- For three communities, analysis was focused on evaluation of rural/nonrural status, as follows:

Kodiak, Adak, and Prudhoe Bay: Currently Kodiak and Prudhoe Bay are considered rural, and Adak is considered nonrural. These three communities were further analyzed as to their rural/nonrural status.

- For five nonrural groupings of communities and areas, further analysis evaluated the possibility of excluding or including places, as follows:

Fairbanks North Star Borough: Evaluate whether to continue using the entire borough as the nonrural area, or separate some outlying areas and evaluate their rural/nonrural status independently.

Seward Area: Evaluate whether to exclude Moose Pass and similarly situated places from this nonrural grouping and evaluate their rural/nonrural status independently.

Wasilla/Palmer Area: Evaluate whether to include Willow, Point MacKenzie, and similarly situated places in this nonrural grouping.

Homer Area: Evaluate whether to include Fox River, Happy Valley, and similarly situated places in this nonrural grouping.

Kenai Area: Evaluate whether to exclude Clam Gulch and similarly situated places from this nonrural grouping and evaluate their rural/nonrural status independently.

- In addition, two areas were recommended for further analysis as follows:

Ketchikan Area: Evaluate whether to include Saxman, and areas of growth and development outside the current nonrural boundary, and evaluate the rural/nonrural status of the whole area.

Delta Junction, Big Delta, Deltana and Fort Greely: Evaluate whether some or all of these communities should be grouped, and their rural/nonrural status evaluated collectively.

This list for additional analysis differed from the proposed list put out for public comment in July 2005, in that: (1) The scope of the review was broadened for the Ketchikan area, currently considered nonrural, to include an analysis of rural/nonrural characteristics of the entire area; (2) the rural/nonrural status of Prudhoe Bay was added; and (3) additional analysis of Sitka was not believed to be necessary.

Sitka, whose population had increased from 8,588 people in 1990 to 8,835 in 2000, had been identified as an area possibly warranting further

analysis. However, during its December 6–7, 2005, meeting, the Board heard substantial public testimony regarding the rural characteristics of Sitka and determined that no additional analysis was necessary. The Board is proposing to leave Sitka's rural status unchanged.

During January–May 2006, Federal subsistence staff conducted in-depth analyses of each community or area on the Board-approved list of communities and areas identified for further analysis.

On June 22, 2006, the Board met in executive session to develop the list of communities and areas they believe to be nonrural. Those communities and areas are identified in this proposed rule.

Population size is a fundamental distinguishing characteristic between rural and nonrural communities. Under the current programmatic guidance in Federal subsistence regulations:

- A community with a population of 2,500 or less is deemed rural, unless it possesses significant characteristics of a nonrural nature, or is considered to be socially and economically a part of a nonrural area.
- A community with a population of more than 7,000 is deemed nonrural, unless it possesses significant characteristics of a rural nature.
- A community with a population above 2,500 but not more than 7,000 is evaluated to determine its rural/nonrural status. The community characteristics considered in this evaluation may include, but are not limited to, diversity and development of the local economy, use of fish and wildlife, community infrastructure, transportation, and educational institutions.

Communities that are economically, socially, and communally integrated are combined for evaluation purposes. The Board identified three guidelines or criteria for analysis to assist in its determination of whether or not to group communities in its review of rural determinations. The criteria to be used include: (1) Are the communities in proximity and road-accessible to one another? The first criterion, proximity and road accessibility, is considered a logical first step in evaluating the relationship between communities, and, applied in relation to the other two criteria, is considered a reasonable indicator of economic, social, and communal integration. (2) Do they share a common high school attendance area? The second criterion, regarding sharing a common high school attendance area, is taken to be an indicator of the social integration of communities. This is an improvement by way of modification from the former criterion of a shared

school district. The public pointed out in past testimony that attendance in a common school district often reflects political or administrative boundaries rather than social integration. A shared social experience is better captured by the shared high school criterion. (3) Do 30% or more of the working people commute from one community to another? This criterion, regarding whether working people commute from one community to another, was identified as providing meaningful information relating to the grouping of communities. Also, the U.S. Census uses this criterion because commuting to work is an easily understood measure that reflects social and economic integration. These criteria were not considered separately, but assessed collectively, with the recommendation to group communities being dependent upon the collective assessment.

Community characteristics and specific indicators that the Board used to evaluate rural/nonrural status include: (1) Economy—wage employment, percent unemployment, per capita income, diversity of services, cost-of-food index, and number of stores defined as large national retailers; (2) community infrastructure—including the cost of electricity; (3) fish and wildlife use—variety of species used per household, percentage of households participating, level of average harvest per capita for all subsistence resources combined, and level of average harvest per capita for salmon and large land mammals only; (4) transportation—variety of means, predominant means, and length of road system; and (5) educational institutions present in the community.

The Board's analysis and preliminary efforts to distinguish between rural places and nonrural places were heavily reliant on population size, but when the Board used other characteristics, its approach was based on a totality of the circumstances. Unemployment is generally higher and per capita income is generally lower in rural places than in nonrural places. Cost of food and cost of electricity were generally higher in the rural communities than in the nonrural. Subsistence per capita harvest of all resources shows a pattern of increasing amount with decreasing population size among nonrural areas, and typically higher levels in rural communities. The per capita harvest of salmon and large land mammals also shows a general pattern of increasing amount with decreasing population size among nonrural areas, and typically higher levels in rural communities. There were no large national retailers found in the rural communities

examined (other than Kodiak which is being proposed as nonrural), or in the three smallest nonrural communities or areas. Population density was generally higher for most nonrural places than it was for rural places.

Summarized below are the Board's recommendation for each area analyzed and the justification for that recommendation.

Adak: Recommend changing Adak's status from nonrural to rural. Following the closure of the military base, the community of Adak has decreased in population by 94 percent from 1990 to 2000. It currently has 167 residents (2005), which is well below the presumptive rural threshold of 2,500 persons. Adak is also extremely remote and is accessible only by boat or plane, with the nearest community (Atka) 169 miles away. With the changes that have occurred since the 1990s, Adak now has rural characteristics typical of a small isolated community.

Prudhoe Bay (including Deadhorse): Recommend changing Prudhoe Bay's status from rural to nonrural. In 2000 Prudhoe Bay had one permanent household comprised of five people. There were reportedly no permanent residents in February 2006. Prudhoe Bay has none of the characteristics typical of a rural community. Prudhoe Bay is an industrial enclave built for the sole purpose of extracting oil. The oil companies provide everything employees need: Lodging, food, health care, and recreation. The thousands of people in Prudhoe Bay do not live there permanently, but work multi week-long shifts. They eat in cafeterias and live in group quarters. There are no schools, grocery stores, or churches. Subsistence is not a part of the way of life. Hunting in the area and possession of firearms and ammunition are prohibited. Based on its industrial enclave characteristics, Prudhoe Bay should be determined to be nonrural.

Fairbanks North Star Borough: No changes to this nonrural grouping are recommended. In applying the grouping criteria as indicators of economic, social, and communal integration, the Board believes that the current nonrural boundary of the Fairbanks Area should continue to be defined as the Fairbanks North Star Borough boundary. No census designated places (CDPs) should be excluded from the nonrural grouping for the following reasons: (1) All CDPs are road accessible to one another. Although the Harding-Birch Lakes and Salcha areas are more sparsely populated than central areas of the borough, both communities include many occasional-use homes owned by Fairbanks residents. Further, both

places are home to only a few year-round residents. (2) The majority of the Borough's high school students are bused to one of the schools located in Fairbanks, North Pole, or Eielson. (3) The Remainder area of the North Star Borough should be included in the grouping because the majority of the population is road connected and over half (57 percent) of the workers residing in this area commute to Fairbanks for employment. Additionally, 75 percent of the workers living in Harding-Birch Lakes drive to the City of Fairbanks to work, and 71 percent of the working population in Pleasant Valley commute to the City of Fairbanks.

Delta Junction Vicinity: No changes are recommended for the rural status of Delta Junction, or the communities in the immediate vicinity. In applying the grouping criteria as indicators of economic, social, and communal integration, the Board believes that the four Delta Junction vicinity CDPs assigned for analysis (Delta Junction, Big Delta, Deltana, and Fort Greely) should be grouped as an area for purposes of rural/nonrural analysis because they fulfill the three guidelines for grouping: (1) All four CDPs are road connected and proximal; (2) the majority of the high school-aged students from Big Delta, Deltana, and Fort Greely attend high school in Delta Junction; and (3) in the two outlying CDPs, over 30 percent of the workers commute within the vicinity (41 percent of the workers living in Big Delta commute to either Delta Junction, Deltana, Fort Greely, or to a Remainder area within the Southeast Fairbanks Census Area, and 45 percent of the workers in Deltana commute to Delta Junction or Fort Greely).

The four places grouped into the Delta Junction Area should remain rural in status. The population size of the grouping (3,921) places it in the nonpresumptive midrange, and information on the characteristics of the grouping, although somewhat limited, is indicative of a rural character. The recent economic upswing to the area due to construction of the Missile Defense system at Fort Greely and development of the Pogo Mine is thought to be temporary.

Seward Area: No changes to this nonrural grouping are recommended. In applying the grouping criteria as indicators of economic, social, and communal integration, the Board believes that the Moose Pass, Crown Point, and Primrose CDPs should remain within the Seward Area grouping. Moose Pass, Crown Point, and Primrose CDPs meet all the criteria for grouping: proximity and road-

accessibility to the Seward Area; their students attend the high school in Seward; and the level of workers commuting to Seward for employment is greater than 30 percent.

Wasilla/Palmer Area: Include the Point MacKenzie CDP in the nonrural Wasilla/Palmer Area grouping; do not include the Willow CDP. The Board believes that the Point MacKenzie CDP meets all the criteria for grouping with the Wasilla/Palmer Area. The Point MacKenzie CDP is in proximity to the Wasilla/Palmer Area and road-accessible; their students attend Wasilla High School; and the level of workers commuting to the Wasilla/Palmer Area for employment is at 50 percent. This change would make Point MacKenzie part of a nonrural area, a change from its current rural status. The Board recommends that the Willow CDP not be included in the Wasilla/Palmer Area grouping. Students in the Willow CDP are located in two attendance areas for high schools, within and outside of the Wasilla/Palmer Area. The level of commuting for workers to the Wasilla/Palmer Area is at 23.9 percent, which is below the criteria identified for grouping.

Kenai Area: Adjust the boundaries of the nonrural Kenai Area to include all of the current Sterling CDP, and propose no change to the current grouping and status of Clam Gulch CDP as part of the nonrural Kenai Area. It appears that Clam Gulch CDP should continue to be included in the Kenai Area grouping because, although students of Clam Gulch CDP attend high school outside of the Kenai Area, the commuting of workers to the Kenai Area is on the order of 30 percent, and Clam Gulch is connected by paved highway to the Kenai Area, with which it has been grouped since initial determinations were made in 1990. It also appears that Coho CDP should remain within the Kenai Area grouping. Coho students attend a high school in the Kenai Area and the level of work commuting, at 69.5 percent, is significantly above the minimum criteria for grouping. The Sterling CDP has been part of the nonrural Kenai Area since 1990. For the 2000 census, the Sterling CDP has expanded in size, such that a significant portion of the CDP extends beyond the current boundary of the nonrural Kenai Area. The Board believes that the boundaries of the Kenai Area should be adjusted to include all of the current Sterling CDP. Students within the Sterling CDP go to high school within the Kenai Area and the level of commuting is at 61.2 percent of workers, well above the minimum criteria for grouping.

Homer Area: Adjust the boundaries of the nonrural Homer Area to include all of the Fritz Creek CDP (not including Voznesenka), and the North Fork Road portion of the Anchor Point CDP. This change would make Fritz Creek East, except for Voznesenka, and the North Fork Road portion of the Anchor Point CDP nonrural, a change from their current rural status. The Board has tentatively concluded for Fritz Creek East that, except for Voznesenka, the residents are economically, socially, and communally integrated with the Homer Area. Fritz Creek East is in proximity and road-connected to the Homer Area. The Homer High School attendance area includes their students, and 43.8 percent of their workers commute to the Homer Area. It appears that Voznesenka should not be included in the Homer Area because, while it is in proximity and road-connected to the Homer Area, the number of jobs shown as being located within the Homer Area is only 19.5 percent, and Voznesenka students attend high school in Voznesenka.

The Board believes that residents of the North Fork Road area fully meet two of the three criteria, proximity and commuting of workers. For the third criteria, although students have the option of attendance in Nikolaevsk School or Ninilchik High School, the vast majority go to Homer High School. This is sufficient basis for considering the North Fork Road area of the Anchor Point CDP to be economically, socially, and communally integrated with the nonrural Homer Area.

The Board believes that residents of the Happy Valley CDP fulfill only the proximity criterion for grouping with the Homer Area. Happy Valley students are within the Ninilchik School high school attendance area, and less than 30 percent of Happy Valley workers commute to the Homer Area (14.4 percent). It appears that residents of the Happy Valley CDP should not be included with the Homer Area.

It appears that the Nikolaevsk CDP, north of the Anchor Point CDP and connected to the Homer Area by the North Fork Road, does not warrant inclusion in the Homer Area. There is a K-12 school in Nikolaevsk, and data show that only 22 percent of jobs held by Nikolaevsk residents were located in the Homer Area.

It appears that residents of Fox River CDP, primarily in the communities of Razdolna and Kachemak Selo, do not meet any of the three criteria, which would indicate that Fox River residents are not economically, socially, or communally integrated with the Homer Area.

Kodiak Area: Define the Kodiak Area to include the road system, including the City of Kodiak, the Mill Bay area, Womens Bay, Bell's Flats, and the Coast Guard Station, but not including Chiniak, Pasagshak, and Anton Larsen, and change the status of the Kodiak Area, as defined, from rural to nonrural. The Board believes that the Kodiak Station CDP should be included in the Kodiak Area grouping. The Kodiak Station CDP directly fulfills two of the three criteria for being grouped in the Kodiak Area, and special consideration is warranted in relation to the third criterion: (1) The Kodiak Station CDP is road-connected and adjacent to the City of Kodiak; (2) the Kodiak Station CDP does not have a high school; all students attend high school in the City of Kodiak; and (3) the special circumstance of enlisted employment accounts for the overall commuting level of workers to Kodiak City being an estimated 11 percent of all working residents. However, this can be attributed to the fact that enlisted personnel residing on the base are by duty assignment bound to the base. Working dependents, who are not bound to employment on the base, virtually all work in Kodiak City. While the worker commuting criterion is thereby not met if one pools enlisted personnel and working dependents, ties to the Kodiak Area are otherwise evident. The Board believes that the Womens Bay CDP should be included in the Kodiak Area grouping. Womens Bay CDP fulfills all three criteria for being grouped in the Kodiak Area: (1) Womens Bay CDP is road-connected and proximal to the City of Kodiak; (2) Womens Bay CDP does not have a high school; students attend high school in the City of Kodiak; and (3) more than 30 percent of the working residents are employed in the City of Kodiak.

The Board believes that the Chiniak CDP should not be included in the Kodiak Area grouping because (1) although there is a road from Chiniak to the City of Kodiak, it is a minimum of a one-hour trip, and the 14 miles closest to Chiniak are unpaved; (2) there is a partial high school in Chiniak to grade 10, and only two-fifths of the high school-aged children attend school in Kodiak.

The Board believes that the road-connected Remainder area should be included in the Kodiak Area grouping, with the exception of the Pasagshak and Anton Larsen portions. The road-connected Remainder area, with the exceptions as noted, is proximal to the City of Kodiak; students from the road-connected Remainder area attend high school in the City of Kodiak; and more than 30 percent of the working residents

of the Remainder area are employed in the City of Kodiak. The road-connected Remainder area of the Kodiak Area includes people residing in Anton Larsen and Pasagshak. There is no information about these "sub-areas" of the road-connected Remainder area, thus it is unknown if students living in these areas are taught through correspondence, home-schooled, or travel to Kodiak to attend high school. It is also unknown how many people commute to Kodiak City to work. However, the Board determined that despite the lack of information regarding the three criteria for grouping, the remoteness of Pasagshak and Anton Larsen is comparable to the remoteness of Chiniak, and therefore elected to propose no change in the rural status of these areas.

The population of the Kodiak Area—estimated at approximately 12,000 in 2005—is well above the presumptive nonrural population of 7,000 in Federal regulations. The population has increased slightly since 1990. Kodiak's per capita income is relatively high and it also has a 2-year college, high diversity of services, a large national retailer, fast food restaurants, and roads linking the outlying area to the city. Of the communities examined during this analysis, the Kodiak Area is 34 percent larger in population than the next largest rural place, and its use of fish and wildlife is 24 percent lower. While the per capita harvest of subsistence resources is higher in the Kodiak Area than in some rural areas, it is well below the levels in some other rural communities.

Ketchikan Area: Define the Ketchikan Area to include Pennock Island, parts of Gravina Island, and the road system connected to the City of Ketchikan, except for the community of Saxman. Saxman would retain its current rural status, and the Ketchikan Area, as defined, would retain its nonrural status. Saxman is directly adjacent to Ketchikan, connected by road, and surrounded by the outlying Ketchikan development. Visually, the only distinguishing feature to indicate the boundary between Ketchikan and Saxman is a sign on the South Tongass Highway. Saxman has clearly been overtaken and is surrounded by the geographic expansion of Ketchikan; Saxman students attend high school in Ketchikan; and 64 percent of the workers in Saxman commute to Ketchikan for their employment, with another 8 percent commuting to the Remainder area of the borough to work. Even though the grouping criteria would indicate including Saxman with the Ketchikan Area, social and economic

characteristics indicate that Saxman should not be grouped in the Ketchikan Area. Saxman is a small, close-knit community that is socially and politically separate from Ketchikan. The residents of Saxman have two distinct entities to separate themselves from Ketchikan, the traditional government (Organized Village of Saxman) and the municipal government (City of Saxman). Socioeconomic indicators suggest distinctions between the two communities. For example, Saxman has a higher unemployment rate, lower per capita income, higher percentage of residents below the poverty level than those found in Ketchikan, and a 70 percent Native population. Another distinguishing characteristic of the community is that Saxman residents depend much more heavily on the harvest of subsistence resources. Saxman's average per capita harvest of 217 pounds is substantially more than has been estimated for the Ketchikan Area. Thus, while the grouping criteria lead to including Saxman with the Ketchikan Area, the unique socioeconomic characteristics of Saxman suggest that it should remain separate from the Ketchikan Area.

The Remainder fulfills all three criteria for grouping with the Ketchikan Area: (1) The Remainder, other than nearby Gravina and Pennock Islands, is road-connected to the City of Ketchikan; (2) Students in the Remainder attend high school in Ketchikan; and (3) Over 30 percent of the workers from the Remainder commute to work in the City of Ketchikan. Presently, most of the Remainder is included in the nonrural Ketchikan Area, established in 1990, except for extensions of the highway to the north and south that have since occurred.

The population of the Ketchikan Area was estimated at 12,720 in 2005 (excluding Saxman), having decreased slightly from 1990. Ketchikan possesses many nonrural characteristics, including having a 2-year college, a large national retailer, car dealerships, fast food restaurants, and roads linking the outlying surrounding area to the city. Although the pulp mill closed, there is still some diversity in the economy with tourism, fishing, fish processing, timber, retail services, and government providing the majority of employment. There is a hospital and a high diversity of services offered. The Ketchikan Area had the sixth highest population in the state in 2005, considering community groupings as defined by the Board. All other areas with higher populations are currently considered nonrural in Federal subsistence regulations. Three areas

with smaller populations are currently classified as nonrural and are not proposed for a change in status: the Homer Area, Seward Area, and Valdez. Harvest of subsistence resources in the Ketchikan Area is lower than is characteristic of rural communities.

This change would make the extended road connected areas of Ketchikan nonrural, a change from their current rural status.

The list of nonrural communities and areas, along with those other nonrural communities or areas whose status would remain unchanged, is published herein as the proposed rule. All other communities and areas of Alaska not listed herein would retain their rural determination. We propose to amend Section _____.23, which identifies those communities and areas of Alaska that are determined to be rural and nonrural. We have made maps available for the nonrural areas. The purpose of these maps is to provide to the subsistence user an overall graphic representation of the extent of the nonrural areas. To view maps, go to the Office of Subsistence Management Web site at <http://alaska.fws.gov/asm/home.html>. If you do not have access to the internet, you may contact the Office of Subsistence Management at the address or phone number shown at **ADDRESSES** or **FOR FURTHER INFORMATION CONTACT**, respectively, and we will send the maps to you.

During August–October 2006, the public and Federal Subsistence Regional Advisory Councils are invited to comment on the proposed rule. Hearings in Kodiak, Sitka, Saxman, and Ketchikan will be held in September and October 2006. The specific dates,

times, and locations will be announced in locally and Statewide—circulated newspapers or you may call the phone number shown at **FOR FURTHER INFORMATION CONTACT**. Additional hearings may be scheduled by the Board, as appropriate. In December 12–13, 2006, in Anchorage, Alaska, the Federal Subsistence Board will meet to consider the comments received and may make changes to the proposed rule. From the decisions made in December, the Board will develop a final rule for publication in the **Federal Register**. The effective date of any community or area changing from a rural to nonrural status is 5 years after the date of publication of the final rule in the **Federal Register**. For communities or areas that change from nonrural to rural, the effective date is 30 days after the date of publication of the final rule in the **Federal Register**.

Because the Federal Subsistence Management Program relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, we propose to incorporate identical text into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and

staff analysis, and examined the environmental consequences of four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comments received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C, published May 29, 1992, implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. The following **Federal Register** documents pertain to this rulemaking:

FEDERAL REGISTER DOCUMENTS PERTAINING TO SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A AND B

Federal Register citation	Date of publication	Category	Detail
57 FR 22940	May 29, 1992	Final Rule	"Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the Federal Register establishing a Federal Subsistence Management Program.
64 FR 1276	January 8, 1999	Final Rule (amended) ..	Amended 7 FR 22940 to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or an Alaska Native Corporation. Specified and clarified Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.

FEDERAL REGISTER DOCUMENTS PERTAINING TO SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A AND B—Continued

Federal Register citation	Date of publication	Category	Detail
67 FR 30559	May 7, 2002	Final Rule	In response to comments on an interim rule, amended the operating regulations. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Received no adverse comments on 68 FR 7703. Adopted direct final rule.
68 FR 60957	October 14, 2004	Final Rule	Established Regional Council membership goals.
70 FR 76400	December 27, 2005	Final Rule	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available from the office listed under **FOR FURTHER INFORMATION CONTACT.** The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction did not constitute a major Federal action significantly affecting the human environment and therefore signed a Finding of No Significant Impact.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A section 810 analysis was completed as part of the FEIS process. The final section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but that the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

This rule contains no new information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. The information collection requirements described in the CFR regulations were approved by OMB under 44 U.S.C. 3501 and were assigned clearance number 1018-0075, which expires August 31, 2006. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

Other Requirements

Economic Effects—This rule is not a significant rule subject to OMB review under Executive Order 12866. This rulemaking will impose no significant costs on small entities; this rule does not restrict any existing sport or commercial fishery on the public lands, and subsistence fisheries will continue at essentially the same levels as they presently occur. The number of businesses and the amount of trade that will result from this Federal land-related activity is unknown but expected to be insignificant.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of regulatory flexibility analyses for rules that will have a significant economic effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as tackle, boat, sporting goods dealers, and gasoline dealers. The number of small entities affected is unknown; however, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these

regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Secretaries have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless the State program is compliant with the requirements of that Title.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no substantial direct effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this

action is not a significant action and no Statement of Energy Effects is required.

William Knauer drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Chuck Ardizzone, Alaska State Office, Bureau of Land Management; Greg Bos, Carl Jack, and Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service; Dr. Warren Eastland, Pat Petrivelli, and Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, Alaska Regional Office, USDA—Forest Service provided additional guidance.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

List of Subjects

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Secretaries propose to amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 would continue to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § _____.23(a) would be revised to read as follows:

* * * * *

§ _____.23 Rural Determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § _____.15 except the following:

- (1) Fairbanks North Star Borough;
- (2) Homer area—including Homer, Anchor Point, North Fork Road area, Kachemak City, and the Fritz Creek area (not including Voznesenka);

(3) Juneau area—including Juneau, West Juneau, and Douglas;

(4) Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatoof, Kalifornsky, Kasilof, and Clam Gulch;

(5) Ketchikan area—including all parts of the road system connected to the City of Ketchikan (except Saxman), Pennock Island, and parts of Gravina Island;

(6) Kodiak area—including the City of Kodiak, the Mill Bay area, the Coast Guard Station, Womens Bay, and Bells Flats;

(7) Municipality of Anchorage;

(8) Prudhoe Bay;

(9) Seward area—including Seward and Moose Pass;

(10) Valdez; and

(11) Wasilla/Palmer area—including Wasilla, Palmer, Sutton, Big Lake, Houston, Point MacKenzie, and Bodenbergt Butte.

You may obtain maps delineating the boundaries of nonrural areas from the U.S. Fish and Wildlife Service, Office of Subsistence Management.

* * * * *

Dated: July 24, 2006.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board.

Dated: July 24, 2006.

Steve Kessler,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 06–6902 Filed 8–11–06; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AU15

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2007–2008 Subsistence Taking of Wildlife Regulations; 2007–2008 Subsistence Taking of Fish on the Kenai Peninsula Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, methods, and means related to taking of

wildlife for subsistence uses during the 2007–2008 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. When final, this rulemaking would replace the wildlife taking regulations included in the “Subsistence Management Regulations for Public Lands in Alaska, Subpart D—2006–2007 Subsistence Taking of Fish and Wildlife Regulations,” which expire on June 30, 2007. This rule would also amend the Customary and Traditional Use Determinations of the Federal Subsistence Board and the General Regulations on taking of wildlife. In addition, at the request of the Southcentral Subsistence Regional Advisory Council, the Federal Subsistence Board is accepting proposals to revise the regulations for fishing seasons, harvest limits, and methods related to taking of fish on the Kenai Peninsula for subsistence uses during the 2007–2008 regulatory year.

DATES: The Federal Subsistence Board must receive your written public comments and proposals to change this proposed rule no later than October 20, 2006. Federal Subsistence Regional Advisory Councils (Regional Councils) will hold public meetings to receive proposals to change this proposed rule on several dates from September 7, 2006, through October 20, 2006. See **SUPPLEMENTARY INFORMATION** for additional information on the public meetings, including dates.

ADDRESSES: You may submit proposals electronically to Subsistence@fws.gov. See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing. You may also submit written comments and proposals to the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska 99503. The public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

FOR FURTHER INFORMATION CONTACT: Pete Probasco, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Public Review Process—Regulation Comments, Proposals, and Public Meetings

The Federal Subsistence Board (Board), through the Regional Councils, will hold meetings on this proposed rule at the following Alaska locations, on the following dates:

COUNCIL COMPOSITION UPDATE

In December 1998, Safari Club International (SCI) and others filed a lawsuit against the Secretaries of the Interior and of Agriculture and the Federal Subsistence Board. The original complaint challenged specific subsistence priority determinations and the process for making those determinations. In 2000, SCI amended its complaint to challenge the composition of subsistence regional advisory council (Council) membership. In 2003, the Council charters were changed to stipulate that members would represent either subsistence or commercial/sport users and to set a goal of 30% representation of commercial and sport users on each Council.

In August 2006, the Court concluded that the Board had not provided a sufficient administrative record showing rationale for the 70:30 Council composition plan. The Court ordered the Board to stop using the 70:30 system after the 2006 Council member appointment process and to promptly begin developing a plan for balanced membership that will meet ANILCA and FACA requirements. The Court stated that while 70:30 is one way of meeting FACA requirements, the Board should consider other ways of achieving balanced membership on the councils. Therefore, to address the Court's concerns and to be as inclusive as possible in developing the membership plan, the Office of Subsistence Management is proceeding as follows.

- As soon as possible, publish a 30-day notice in the Federal Register which will explain the current situation and the rationale for the 70:30 rule. The notice will request public comments regarding the 70:30 rule and solicit alternative plans for balanced Council membership.
- The content of the Federal Register Notice will be presented to the Councils at the winter 2007 meetings. At that time the Councils may hear public testimony and provide comments and suggestions.
- The Board will receive the Councils' and public comments, including pertinent testimony given at Council meetings, at the May 2007 Board meeting. The Board will review all suggested alternatives and modifications and develop a recommendation to the Secretaries.

If necessary, the Departments of the Interior and Agriculture will then begin the rule-making process.

DRAFT CLOSURE, SUA, AND C&T POLICIES UPDATE

August 29, 2006

DRAFT CLOSURE POLICY

This draft policy describes how the Federal Subsistence Board will handle closures to hunting, trapping and fishing on Federal public lands in Alaska. All of the Regional Advisory Councils reviewed a draft of this policy at their winter 2006 Council meetings. Revisions were made to the draft policy based on comments from the Councils, the State of Alaska, and the Solicitor's office. At their August 25, 2006 meeting, the Board took more public comments and asked that a subcommittee of the Board work on this issue. Staff is continuing to review wildlife closures. Three of the ten Councils will be reviewing closures in their regions during the fall 2006 Council meeting cycle.

DRAFT SUBSISTENCE USE AMOUNTS (SUA) PROTOCOL

This draft protocol was intended to provide guidance to State and Federal managers for coordinating subsistence management. A draft of the protocol was provided to the Councils for their review at the winter 2006 meetings. Many of the Councils raised serious concerns about some of the State's Amounts Necessary for Subsistence (ANS) numbers and the implications of using these numbers for management. No further work has been done on the draft protocol since the winter 2006 Council meetings, and a plan has yet to be developed for how to better approach the issue.

DRAFT CUSTOMARY AND TRADITIONAL USE (C&T) POLICY

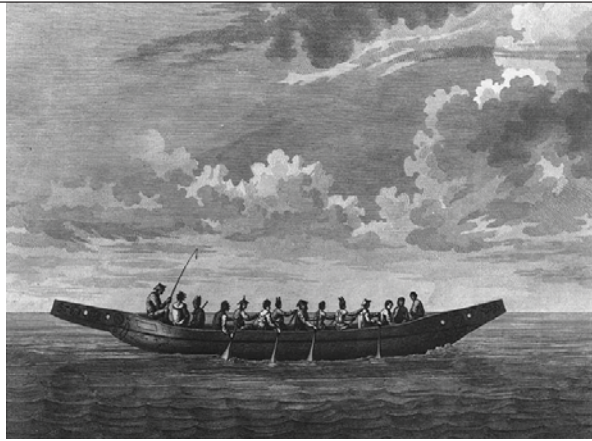
The purpose of the draft policy is to develop a clear written explanation of the Board's C&T use determination process. In recent years, ADF&G has expressed concerns that some of the Board C&T findings could create a larger pool of users, which could restrict nonsubsistence users. Staff is examining various options in developing this policy. The goal is to have a draft ready for review by the Councils during the winter 2007 meetings. A lawsuit has recently been filed by the State of Alaska concerning a Unit 12 Federal Subsistence Board C&T determination for Chistochina and Menatasta; this may complicate ongoing discussions with the State on the C&T Policy. Staff is putting together the administrative record on this C&T decision to file it with the 9th Circuit Court in early September.

Secretarial Petition: Hunting Licenses

The Federal Subsistence Board approved distributing the following petition from the Southeast Alaska Subsistence Regional Advisory Council to each of the nine Regional Advisory Councils for review and recommendations. This petition is included with Fall 2006 meeting materials.

The petition requests the Secretaries to issue a Federal hunting license to Federally qualified subsistence users hunting on Federal public lands, instead of the current requirement in Federal subsistence management regulations that Federally qualified subsistence users must have a State-issued hunting license when hunting on Federal public lands.

Any Council comments and recommendations should be forwarded to the Southeast Council. These will be included with the petition when the Southeast Council submits it to the Secretaries. The Secretaries of Agriculture and the Interior have authority to change license requirements.



***Southeast Alaska Regional
Advisory Council***

**Dolly Garza, Ph. D.,
Vice-Chair**

**University of Alaska
Marine Advisory Program
2417 N. Tongass 213A
Ketchikan, AK 99901
907-247-4978
*ffdag@uaf.edu***

March 30, 2006

Mitch Dementieff, Chair
Federal Subsistence Board
3601 C Street, Suite 1030
Anchorage, AK 99503

Dear Mr. Dementieff,

The Southeast Alaska Regional Advisory Council (SERAC) met in Saxman, February 27 through March 3, 2006. At this meeting the Council reviewed the attached petition to the Secretaries of Interior and Agriculture concerning the present requirement that subsistence hunters possess a State of Alaska hunting license in order to hunt under Federal subsistence regulations. Because this is a statewide issue, other Regional Advisory Councils need the opportunity to review the draft SERAC petition and to provide their comments and suggestions. The Council proposes the following course of action to solicit input from other Regional Advisory Councils, revise, complete, and submit this petition for consideration by the Secretaries:

1. The draft SERAC petition will be provided to all Councils for their review and recommendation at fall 2006 Council meetings.
2. Councils will provide their comments and recommendations back to SERAC within one month of fall meetings.
3. SERAC will hold a teleconference meeting to finalize the petition on approximately Nov. 25, 2006. The comments and recommendations of other Councils will be appended to the final petition. The final petition will be submitted end of November, 2006.

Please address any questions with this letter either directly to me or through Dr. Robert Schroeder, Subsistence Management Coordinator, U. S. Forest Service, Alaska Region, Box 21628, Juneau, AK 99802-1628, 1(800) 586-7895, fax (907) 586-7860, rschroeder@fs.fed.us.

Thank you for considering the recommendations of the Southeast Regional Advisory Council.

Yours truly,

s/s DOLLY GARZA

Dolly Garza, Vice-Chair

cc. Council Members:

Bert Adams Jr., Yakutat

Donald Hernandez, Pt. Baker/Petersburg

Floyd Kookesh, Angoon

Patricia Phillips, Pelican

Michael Bangs, Petersburg

Harvey Kitka, Sitka

Dick Stokes, Wrangell

Mike Douville, Craig

Nick James, Kake

Michael Soufoulis, Juneau

Frank Wright Jr., Hoonah

DRAFT PETITION TO THE SECRETARIES CONCERNING HUNTING LICENSES

Secretary of the Interior

Mike Johanns
Secretary of Agriculture

Dear Secretaries,

For a number of years, the Council has been concerned with the requirement that Federally-qualified subsistence hunters, using Federal lands to meet their subsistence needs, have been required to purchase and carry State of Alaska hunting licenses. The Council believes that this requirement is unnecessary, puts an undo financial and regulatory burden on Federally-qualified subsistence users, and conflicts with the intention of ANILCA to provide protection in Federal law for subsistence uses.

The Southeast Alaska Subsistence Regional Council (SERAC) met in Saxman, February 27 through March 3, 2006. The Council represents all southeast subsistence communities including Yakutat. The Council is authorized by the Alaska National Interest Lands Conservation Act (ANILCA), and chartered under the Federal Advisory Committee Act, to provide recommendations to the Federal Subsistence Board concerning regulatory and land management actions that may affect subsistence uses of fish and wildlife. ANILCA and the charter also recognize the Council's authority to "initiate, review and evaluate proposals for regulations, policies, management plans, and other matters related to subsistence uses of fish and wildlife on public lands within the region" and to "provide a forum for the expression of opinions and recommendations....(on) any matter related to the subsistence uses of fish and wildlife on public lands within the region."

The Council approved this Petition to the Secretaries at it Saxman meeting by unanimous vote on SERAC resolution 06-04. This petition requests deletion of the current requirement that Federally-qualified subsistence purchase and carry State of Alaska hunting licenses while hunting under Federal subsistence management regulations on Federal public land. The Council requests that this petition be provided to other Subsistence Regional Advisory Councils at their Fall 2006 meetings for review, revision, and concurrence.

Council authority

The Council has addressed the license issue in its recent Annual Reports to the Secretaries. Councils are authorized to submit Annual Reports under ANILCA Sec. 805 (a) (3) (D). Among other things, the Councils Annual Reports shall contain:

(iii) a recommended strategy for the management of fish and wildlife within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standard guidelines, and regulations to implement the strategy...

The Council considers this statutory direction to be central to its ability to represent subsistence interests in Southeast Alaska and insure that ANILCA protections for subsistence are in place. The Council believes that the license requirement is an issue of 'taking.' Under current Federal regulations, a Federally-qualified subsistence hunter may only take game if he or she is in possession of a State of Alaska hunting license. Because this is an issue of 'taking,' the Council believes that its recommendation concerning this provision is due deference under ANILCA Sec. 805 (c):

The Secretary, in performing his monitoring responsibility pursuant to section 806 and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regional for subsistence uses. The Secretary may choose not to follow any recommendations which he determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

Background on the current license requirement

Current regulations. Information provided to the public in *Management Regulations for the Harvest of Wildlife on Federal Public Lands in Alaska* states,

Subsistence hunters and trappers are required to possess State hunting and trapping licenses.

Authorization for this license requirement is found in 36 CFR Ch. II (7–1–03 Edition)

§ 242.6 Licenses, permits, harvest tickets, tags, and reports. (a) *If you wish to take fish and wildlife on public lands for subsistence uses, you must be an eligible rural Alaska resident and:* (1) *Possess the pertinent valid Alaska resident hunting and trapping licenses (no license required to take fish or shellfish, but you must be an Alaska resident) unless Federal licenses are required or unless otherwise provided for in subpart D of this part;* (2) *Possess and comply with the provisions of any pertinent Federal permits (Federal Subsistence Registration Permit or Federal Designated Harvester Permit) required by subpart D of this part;* (3) *Possess and comply with the provisions of any pertinent permits, harvest tickets, or tags required by the State unless any of these documents or individual provisions in them are superseded by the requirements in subpart D of this part.*

Current Federal regulations require no license for subsistence fishing or taking of shellfish. They do require Federally-qualified subsistence users to possess State of Alaska hunting and trapping licenses.

Regulatory background. The Federal Subsistence Program's regulatory specialist, Bill Knauer, Office of Subsistence Management, provided the following background on this requirement, in response to the Council's request for information (pers. comm. 2005):

The initial intent as stated in the June 8, 1990 proposed rule was as follows "The intent of these regulations is to maximize the use of the State license system and permit system, consistent with the sound management of fish and wildlife and fulfillment of the Secretary's Title VIII responsibilities." This statement was reiterated in the June 29, 1990 final rule and an additional statement "Separate Federal licenses, permits, harvest tickets or tags will only be required where the State's requirements for licenses, permits, harvest tickets or tag conflict with the Federal government's efforts to provide for subsistence preference for rural residents on public lands." In the final rule of January 8, 1999, the statement is made "We have attempted to avoid confusion and unnecessary duplication wherever possible when establishing this program. The retention of State permits and licenses is one area where it is possible to avoid unnecessary duplication." The following statement is found in a 1996 briefing document that addressed residency and licensing requirements:

The requirement for an individual to possess a hunting or fishing license is consistent with sound management principles. The information obtained from the issuance of licenses allows managers

to estimate the hunting or fishing pressure likely to be directed at wildlife populations in certain areas. The revenues obtained from licenses directly support the Alaska Department of Fish and Game, providing for wildlife surveys, research, habitat improvement, education and information. License sales also result in millions of dollars in matching funds coming from the Federal government for the specific purpose of habitat acquisition, improvement and wildlife management.

In response to comments from John Littlefield and others, a reply to Mr. Littlefield from the Assistant Regional Director, Office of Subsistence Management in late 2004/early 2005 contained the following information:

The Federal Subsistence Management Program presently requires Federally-qualified subsistence hunters to possess an Alaska resident hunting license. This requirement was established during development of the original Federal Subsistence Management Program structure. The Secretaries decided that the cost of a general hunting license (currently \$25.00 or \$5.00 in the case of a low income license) is minimal in comparison to the benefits accruing to both the subsistence user and the State. Not only is necessary user and harvest information collected from licenses, harvest tickets, and reports, but the Alaska Department of Fish and Game generates monies to conduct important wildlife studies and surveys that translate into better management of wildlife resources for all users.

The State of Alaska resident general hunting license costs \$25. There are no sport hunting licenses. All Alaska residents 16 years or older must possess a valid license to hunt. Residents 15 or younger are not required to have a license in order to hunt. Residents 65 or older may hunt with a free identification card. A resident may purchase a \$5 low income license if his family income is below \$8,200 (before taxes) or he obtained assistance during the preceding six months under any State or Federal welfare program. The monies collected from license fees go into the ADF&G budget, not the general State Treasury.

Additionally, the Alaska Department of Fish and Game receives significant Federal funds through the Federal Aid to Wildlife Restoration Program. In 2004 this amounted to \$8,648,602 and in 2003 the amount was \$9,107,484. The apportionment is determined by a formula which considers the total area of the state and the number of licensed hunters in the state. When utilizing these funds, the state must provide at least 25 percent of project costs from a non-federal source. Projects that are eligible for funding under this program include: wildlife population management, habitat management, surveys and inventories, research, hunter/trapper education, land acquisition, etc.

In January 1996, the Federal Subsistence Board concluded that “The requirement for an individual to possess a hunting or fishing license is consistent with sound management principles. The information obtained from the issuance of licenses allows managers to estimate the hunting or fishing pressure likely to be directed at wildlife populations in certain areas.”

Council license considerations.

1. **Affected subsistence users.** Residents of Adak, Anchorage, Fairbanks, Homer (and nearby communities), Juneau, Kenai (and nearby communities, Ketchikan, the Matanuska-Susitna area, the Seward area, and Valdez are presently considered non-rural places for the purposes of Federal subsistence management. All other Alaskan residents, living in approximately 220 communities, are considered rural residents and are eligible for subsistence harvesting under the Federal program (Federally-qualified users). ANILCA was written to guarantee the continuance of

cultural and social subsistence activities by members of these communities.

2. **Affected area.** Over half of Alaska's land area consists of Federal Public Land under the administration of Department of Interior or Department of Agriculture. Roughly 200 million of Alaska's 365 million acres are under Federal management. In Southeast Alaska, except for Native corporation land, limited state and municipal withdrawals, and small amounts of private land, land is administered by USDA Forest Service and DOI National Park Service, with very small amounts of land administered by other Federal agencies. Statewide, a large majority of the harvesting of land mammals by Federally-qualified subsistence users takes place on Federal Public Land. In Southeast Alaska, almost all subsistence harvesting of land mammals takes place on Federal Public Land.
3. **Rationale for adoption of State of Alaska license regulations.** The 1989 State of Alaska Supreme Court decision in the McDowell case ruled that the rural provisions of the State subsistence law were unconstitutional. This ruling meant that the State of Alaska could not comply with the ANILCA provisions requiring provision of a preference for rural subsistence users.

The expectation following this court decision was that the State of Alaska would quickly amend its constitution to comply with the rural provisions of ANILCA. The State of Alaska legislature had changed the State subsistence law to incorporate a rural preference a few years before the 1989 State Supreme Court decision. The initial actions of the Federal Subsistence Program attempted to minimize change from the State of Alaska regulatory program. Accordingly the Federal program adopted most of the State of Alaska regulations and procedures wholesale to minimize public confusion and to allow a speedy transition back to State of Alaska management of subsistence. To this end the Federal program adopted most season and harvest limit regulations, most State customary and traditional determinations and procedures, and State license requirements. Throughout the 1990s serious attempts were made to bring the State of Alaska constitution in compliance with ANILCA provisions. Since 2000, the State of Alaska has discontinued its efforts to regain management authority over subsistence through constitutional, legislative, or congressional means.

State license requirements in 1990 required that subsistence users possess a state hunting license. State regulations did not require possession of a state fishing license.

The Council believes that this initial decision was a reasonable one, given the anticipation that Federal management of subsistence in Alaska would be of very limited duration. We do not believe, however, that this temporary acquiescence to State of Alaska regulations and license requirements continues to be warranted.

4. **Current license issues.** We are now in the 17th year of Federal management of subsistence harvests on Federal public land in Alaska. All indications are that the Federal program will continue indefinitely into the future. We believe that it is appropriate to review and revise the initial Federal program decision concerning requiring Federally-qualified subsistence users to possess State of Alaska hunting licenses.
5. **ANILCA.** Nothing in the authorizing legislation requires the use of State of Alaska hunting licenses. The decision to require licenses was a Secretarial decision made during the initial organization of the Federal Subsistence Program. The Council believes that this initial decision is ripe for review and should be subject to a new Federal rulemaking.

6. **State support for ANILCA subsistence protections.** Under State of Alaska statutes, State management and regulatory actions are unable to comply with, much less actively support, the provisions of ANILCA which require subsistence protections to Federally-qualified rural residents. The 1989 State of Alaska Supreme Court decision simply does not allow a rural preference. In recent years, the State has frequently opposed the provisions season and harvest regulations that the Councils recommended as being necessary to meet subsistence needs. The State has often opposed the very limited restrictions placed on non-Federally qualified hunters and fishers that the Councils and the Federal Subsistence Board have found to be needed to allow for subsistence harvests. The State has opposed Federal provisions required by ANILCA to regulate customary trade, use of nonedible parts of subsistence harvests for handicrafts, and to allow designated hunters to provide fish and wildlife to members of their communities. This opposition to the interests of Federally-qualified subsistence users has been partially funded by the license fees these users pay to the State of Alaska.

License fees also support some construction of facilities to support hunting and fishing. These facilities may include boat ramps, viewing stations, or firing ranges. The Council believes that these facilities, partially supported by State license fees, generally are not used by nor serve the interests of rural subsistence users.

Much of the biological research undertaken to support species used for subsistence is funded directly by the Federal Subsistence Program, and much of the other data collection that documents subsistence harvests and use and supports the Federal Subsistence Program is funded directly with Federal funds. Most of this work is undertaken directly by Federal biologists working for the four Federal land management agencies and the Bureau of Indian Affairs, or under Federal contract with communities, tribal government organizations, universities, other researchers, and with the Alaska Department of Fish and Game. Federal agencies provide about \$3,000,000 per year to the department for biological and traditional ecological knowledge studies to provide information. The fees from the State of Alaska hunting licenses required of Federally-qualified hunters do not account for a major share of funds spent on the staffing or data collection that supports the Federal Subsistence Program.

Furthermore, the Federal government provides the State of Alaska with funding to support needed liaison and coordination functions with the Federal Subsistence Program. The Federal agencies provide about \$500,000 yearly to the Alaska Department of Fish and Game for these activities. These liaison and coordination functions are not funded through the use of the hunting license fees in question.

The Council respects the professional integrity and competence of Alaska Department of Fish and Game biologists and anthropologists, and uses their expertise, along with the expertise of Federal, tribal, and non-government specialists, in making its recommendations. The State staff's responsibility, however, is determined by State of Alaska statutes and does not align with ANILCA requirements.

7. **Financial Implications.** The current State of Alaska license creates a financial burden on Federally-qualified subsistence users, many of whom have limited cash resources. Recent efforts by the Alaska Department of Fish and Game to increase license fees would have fallen disproportionately on rural users.

State license fees are used as matching funds for Federal matching funds under Pittman-Roberts, Wallop-Boureaux, and Dingle-Johnson programs. The Federal funds come from taxes on rifles, ammunition, and other gear used by hunters. The Council believes that these uses of license fees

and taxes paid by rural hunters are not presently being used for the benefit of Federally-qualified subsistence users. The State uses these funds primarily to support programs that benefit non-Federally qualified hunters and support the State management direction, which strongly opposes the ANILCA subsistence provisions.

Remedy

The Council petitions the Secretaries to eliminate the requirement that subsistence users possess a State of Alaska hunting license. This change will require a formal rulemaking. The Council proposes a number of steps to reach this regulatory change.

1. Based on consultation with Federal staff, the regulatory change should probably be made at XXX.

Suggested wording:

(xxx) A Federal hunting license will be issued to a qualified Federal subsistence user. This license authorizes the licensee to hunt under Federal subsistence regulations on Federal Public Land. No other license is required. If hunting under this license, the user must have this license in possession while in the field.

**UNITED STATES DEPARTMENT OF THE INTERIOR
SEWARD PENINSULA SUBSISTENCE REGIONAL ADVISORY COUNCIL**

CHARTER

1. **Official Designation:** Seward Peninsula Subsistence Regional Advisory Council.
2. **Objectives and Scope of Activity:** The objective of the Council is to provide an administrative structure that enables residents of the region who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses of those resources on public lands in the region.
3. **Period of Time Necessary for the Council's Activities and Termination Date:** The Council is expected to exist into the foreseeable future. Its continuation is, however, subject to rechartering every biennial anniversary of the Alaska National Interest Lands Conservation Act of December 2, 1980. The Council will take no action unless the requirements of the Federal Advisory Committee Act have been complied with.
4. **Official to Whom the Council Reports:** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
5. **Support Services:** The U.S. Fish and Wildlife Service, Department of the Interior, will provide administrative support for the activities of the Council.
6. **Duties of the Council:** The Council possesses the authority to perform the following duties:
 - a. Initiate, review and evaluate proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the region.
 - b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the region.
 - c. Encourage local and regional participation in the decision making process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses.
 - d. Prepare an annual report to the Secretary containing the following:
 - (1) An identification of current and anticipated subsistence uses of fish and wildlife populations within the region.
 - (2) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region.
 - (3) A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs.
 - (4) Recommendations concerning policies, standards, guidelines and regulations to implement the strategy.
 - e. Make recommendations on determinations of customary and traditional use of subsistence resources.
 - f. Make recommendations on determinations of rural status.

- g. Provide recommendations on the establishment and membership of Federal local advisory committees.

The Council will perform its duties in conformity with the Regional Council Operations Manual.

7. **Estimated Operating Costs:** Annual operating costs of the Council are estimated at \$100,000, which includes one person-year of staff support.
8. **Meetings:** The Council will meet at least twice each year at the call of the Council, Council Chair, Federal Subsistence Board Chair, or Designated Federal Officer with the advance approval of the Federal Subsistence Board Chair and the Designated Federal Officer, who will also approve the agenda.
9. **Membership:** The Council's membership is as follows:

Ten members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the region represented by the Council. To ensure that a diversity of interests is represented, it is the goal that seven of the members (70 percent) represent subsistence interests within the region and three of the members (30 percent) represent commercial or sport interests within the region.

The Secretary of the Interior will appoint members based on the recommendations of the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

Vacancy: Whenever a vacancy occurs among Council members appointed under paragraph 9, the Secretary will appoint an individual in accordance with paragraph 9 to fill that vacancy for the remainder of the applicable term.

Terms of Office: Except as provided herein, each member of the Council will serve a 3-year term with the term ending on December 2 of the appropriate year unless a member of the Council resigns prior to the expiration of the 3-year term or he/she is removed for cause by the Secretary upon recommendation of the Federal Subsistence Board. Members will be notified of their appointment in writing. If resigning prior to the expiration of a term, members will provide a written resignation.

Election of Officers: Council members will elect a Chair, a Vice-Chair, and a Secretary for a 1-year term.

Removal of Members: If a Council member appointed under paragraph 9 has two consecutive unexcused absences of regularly scheduled meetings, the Chair of the Federal Subsistence Board may recommend that the Secretary of the Interior with the concurrence of the Secretary of Agriculture remove that individual. A member may also be removed due to misconduct.

Compensation: Members of the Council will receive no compensation as members. Members will, however, be allowed travel expenses, including per diem, in the same manner as persons employed intermittently in government service are allowed such expenses under 5 U.S.C. 5703.

10. **Ethics Responsibilities of Members:** No Council or subcommittee member will participate in any specific party matter including a lease, license, permit, contract, claim, agreement, or related litigation with the Department in which the member has a direct financial interest.

11. **Designated Federal Officer or Employee:** Pursuant to Section 10(e) of the Federal Advisory Committee Act, the Designated Federal Officer will be the Federal Regional Coordinator or such other Federal employee as may be designated by the Assistant Regional Director - Subsistence, Region 7, U.S. Fish and Wildlife Service.
12. **Authority:** The Council is reestablished by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115 (1988)).

/sgd/ Gale A. Norton
Secretary of the Interior

October 25, 2005
Date Signed

October 27, 2005
Date Filed

Winter 2007 Regional Advisory Council Meeting Window**

February 19–March 23, 2007 current as of 8/18/06

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Feb 11</i>	<i>Feb 12</i>	<i>Feb 13</i>	<i>Feb 14</i>	<i>Feb 15</i>	<i>Feb 16</i>	<i>Feb 17</i>
<i>Feb 18</i>	<i>Feb 19</i> Meeting Window Opens PRESIDENT'S DAY HOLIDAY	<i>Feb 20</i>	<i>Feb 21</i>	<i>Feb 22</i>	<i>Feb 23</i>	<i>Feb 24</i>
		SP—Nome				
		BB—Naknek				
<i>Feb 25</i>	<i>Feb 26</i>	<i>Feb 27</i>	<i>Feb 28</i>	<i>Mar 1</i>	<i>Mar 2</i>	<i>Mar 3</i>
		SE—Kake			NS—Barrow	
<i>Mar 4</i>	<i>Mar 5</i>	<i>Mar 6</i>	<i>Mar 7</i>	<i>Mar 8</i>	<i>Mar 9</i>	<i>Mar 10</i>
		WI—Aniak		NWA—Kotzebue		
<i>Mar 11</i>	<i>Mar 12</i>	<i>Mar 13</i>	<i>Mar 14</i>	<i>Mar 15</i>	<i>Mar 16</i>	<i>Mar 17</i>
	KA—King Cove*			YKD—Hooper Bay		
		SC—Anchorage				
<i>Mar 18</i>	<i>Mar 19</i>	<i>Mar 20</i>	<i>Mar 21</i>	<i>Mar 22</i>	<i>Mar 23</i> Meeting Window Closes	<i>Mar 24</i>
		EI—Tok				

*Cold Bay alternate location for K/A

**Kenai Peninsula dates and location to be announced.

Fall 2007 Regional Advisory Council Meeting Window

August 27-October 19, 2006 current as of 9-8-06

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug 26	Aug 27 FISH CYCLE MEETING WINDOW OPENS	Aug 28	Aug. 29	Aug. 30	Aug. 31	Sept. 1
		NS - Barrow				
Sept. 2	Sept. 3 Holiday	Sept. 4	Sept. 5	Sept. 6	Sept. 7	Sept. 8
Sept. 9	Sept. 10	Sept. 11	Sept. 12	Sept. 13	Sept. 14	Sept. 15
Sept. 16	Sept. 17	Sept. 18	Sept. 19	Sept. 20	Sept. 21	Sept. 22
Sept. 23	Sept. 24	Sept. 25	Sept. 26	Sept. 27	Sept. 28	Sept. 29
Sept. 30 END OF FY 2006	Oct. 1 BEGINNING OF FY2007	Oct. 2	Oct. 3	Oct. 4	Oct. 5	Oct. 6
Oct. 7	Oct. 8 Holiday	Oct. 9	Oct. 10	Oct. 11	Oct. 12	Oct. 13
Oct. 14	Oct. 15	Oct. 16	Oct. 17	Oct. 18	Oct. 19 FISH CYCLE MEETING WINDOW CLOSES Wildlife Proposal Period Ends	Oct. 20